

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**ALLIED PROPERTY &
CASUALTY INSURANCE
COMPANY,**

Plaintiff

v.

JONES STEPHENS CORP.,

Defendant

6:21-cv-564

Civil Action No._____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Jones Stephens Corp. (“Jones Stephens”), by and through the undersigned counsel, hereby remove this action from the District Court, 169th Judicial District, for Bell County, Texas, to the United States District Court for the Western District of Texas.

Removal is based on complete diversity. In support of its notice, Defendant states as follows:

I. BACKGROUND

1. This case was originally filed by the Plaintiff in the District Court, 169th Judicial District, for Bell County, Texas on April 29, 2021 relating to real property

located at 617 Bluebonnet Lane in Temple, Texas. (Plaintiff's Original Pet. § IV, ¶

1). In accordance with 28 U.S.C. § 1446(a), a copy of all process, pleadings and orders received by Defendant are attached as **Exhibit "A"**.

2. Plaintiff is a corporation which conducts business in the State of Texas. (Plaintiff's Original Pet. § III, ¶ 1).

3. In the Petition, Plaintiff states claims against Defendant to recover damages associated with the failure of a water supply line which was allegedly manufactured, marketed and sold by this Defendant. (Plaintiff's Original Pet. § IV.).

4. This Defendant is an Alabama corporation. (Plaintiff's Original Pet. § III, ¶ 2).

5. Plaintiff seeks damages against this Defendant in an amount which exceeds \$146,046.92. (Plaintiff's Original Pet. § VII, ¶ 1).

6. Defendant filed a timely answer to the Original Petition in the State District Court on June 1, 2021. A copy of the Answer is attached as "**Exhibit B.**"

II. VENUE

7. The United States District Court for the Western District of Texas, Waco Division, is the proper place to file this Notice of Removal under 28 U.S.C. § 1441(a) because it is the federal district court that embraces the place where the original action was filed and is pending.

III. TIMELINESS OF REMOVAL

8. Plaintiff filed the Complaint on April 29, 2021.
9. This Defendant was served with the Complaint through its agent for service of process on May 6, 2021.
10. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(1) and (c)(1) as it is filed within thirty (30) days of receipt of the Complaint by the Removing Party and within one (1) year of the State Court Action being filed.

IV. BASIS FOR REMOVAL – DIVERSITY JURISDICTION

11. This Court has original jurisdiction pursuant to 28 U.S.C § 1332(a), and this matter is therefore removable to this Court pursuant to 28 U.S.C. § 1441(a), because there is complete diversity of citizenship among the parties and the amount in controversy exceeds \$75,000 exclusive of interest and costs (hereinafter “Diversity Jurisdiction”).

V. DIVERSITY OF THE PARTIES

12. Plaintiff’s Original Petition alleges Plaintiff is a corporation which conducts business in Texas. (Plaintiff’s Original Pet. § III, ¶ 1).

13. Although not specified in Plaintiff’s Original Petition, Plaintiff’s filings with the Iowa Secretary of State make clear Plaintiff is an Iowa corporation with principal place of business in the State of Iowa. (*See* Iowa Secretary of State Business Entity Summary, attached hereto and incorporated herein as **Exhibit “C”**).

14. Plaintiff's Original Petition alleges this Defendant is a corporation located at 3249 Moody Parkway, Moody, Alabama 35004. (Plaintiff's Original Pet. § III, ¶ 1).

15. Because Plaintiff, Allied Property & Casualty Insurance Company (Iowa), and Defendant, Jones Stephens Corp. (Alabama), are the only two parties to this action and complete diversity exists, and the amount in controversy exceeds \$75,000, diversity jurisdiction is proper in this matter.

VI. NOTICE OF REMOVAL FILED WITH THE STATE DISTRICT COURT FOR BELL COUNTY, TEXAS

16. Concurrently with this Notice of Removal, Defendant will file a copy of this Notice with the District Court, 169th Judicial District, of Bell County Texas. In accordance with 28 U.S.C. § 1446(d), Defendants will give written notice to the Plaintiff by contemporaneously serving this Notice of Removal on Plaintiff.

17. If any question arises as to the propriety of the removal of this action, Defendant respectfully requests the opportunity to present a brief and oral argument in support of its position that this case is removable. *See Sierminski v. Transouth Fin. Corp.*, 216 F.3d 945, 949 (11th Cir. 2000) (announcing general rule that post-removal evidence in assessing removal jurisdiction may be considered by the Court).

VII. JURY DEMAND

18. Defendant Jones Stephens Corp. asserts its right under the Seventh Amendment to the U.S. Constitution and demands, pursuant to Federal Rule of Civil Procedure 38, a trial by jury on all issues.

VIII. CONCLUSION

19. For the foregoing reasons, Defendant respectfully requests that this civil action be, and is hereby, removed to the United State District Court for the Western District of Texas, Waco Division, that this Court assume jurisdiction of this civil action, and that this Court enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice. Defendant further requests a trial by jury, and all further relief at law and in equity to which it is justly entitled.

Respectfully submitted,

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By: /s/ Thomas C. Sanders
Thomas C. Sanders
State Bar No. 17609900

COUNSEL FOR DEFENDANT,
JONES STEPHENS CORP.

CERTIFICATE OF SERVICE

I hereby certify that, on the 3rd day of June, 2021, I served a copy of the above and foregoing on counsel for all parties by:

X Facsimile transmission to the following:

Jasmine F. Robinson
Law Office of James A. Lawrence
105 Decker Drive, Suite 150
Irving, Texas 75062
Fax (855) 717-5349

X Email to: robij14@nationwide.com

X Placing a copy of same in the United States Mail, properly addressed and first-class postage prepaid to the following:

(Same as above)

X Filing a copy of same with the District Clerk of Bell County, Texas

/s/ Thomas C. Sanders
THOMAS C. SANDERS